IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16/07/2004

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THE HONOURABLE MR.JUSTICE M.CHOCKALINGAM

C.R.P.(NPD).No.1574 of 2004
and
C.M.P.No.12493 of 2004

R.Rajeswari .. Petitioner

-Vs-

Swamidoss .. Respondent

This civil revision petition is preferred under Sec.25 of the Tamil Nadu Building (Lease and Rent Control) Act 18 of 1960 as amended by Act 23 of 1973 and Act 1 of 1980 against the fair and decretal order dated 5.4.2004 passed in I.A.No.45 of 2003 in R.C.A.No.22/2003 on the file of the Principal Sub Judge, Dindigul, against the order dated 7.4.2003 passed in H.R.C.O.P.No.26/2001 on the file of the Principal District Munsif, Dindigul.

!For Petitioner : Mr.K.R.Ramesh Kumar

^For Respondent : ---

:ORDER

This civil revision petition has been brought forth by the tenant, who suffered an ex-parte order of eviction in the hands of the Rent Controller in HRCOP No.26 of 2001 on the file of the Principal District Munsif, Dindigul and filed therefrom, R.C.A.No.22/2003 on the file of the Principal Sub Judge, Dindigul, along with a petition for stay.

2. From the available materials, it could be well seen that the landlord, the respondent herein, filed an eviction petition under Sec.10(2)(1) of the Tamil Nadu Buildings (Lease and Rent) Control Act alleging that there was lot of rental arrears by the tenant; that there was willful default on the part of the tenant, the petitioner herein, despite the notice issued before filing of the RCOP, and hence, she should be evicted.

3. A counter was filed; but, the petitioner tenant did not pay any amount towards the rental arrears.

4. The matter was taken up by the learned Rent Controller. On 23.6.2003, since the tenant was absent, she was set ex-parte, and an order of eviction came to be passed by the learned Rent Controller. Challenging that order, the tenant has filed R.C.A. No.22/2003. Along with that appeal, she has filed an interlocutory application for stay of the orders of the Rent Controller. But, the Rent Control Appellate Authority has refused to grant

say, in view of the reasons adduced in the order impugned. Aggrieved, the tenant has brought forth this revision petition against the order passed in the I.A. pending the R.C.A.
5. This Court heard the learned Counsel appearing for the petitioner.

6. The Court is of the considered opinion that no case is made out even for admission of the revision, and it does not also require a notice to the opposite party in order to avoid the avoidable delay.

7. It is not in dispute that the petitioner before this Court is a tenant under the respondent landlord. The monthly rental is also not in dispute. It is pertinent to point out that no case was set out in the counter filed by the tenant stating what was the reasons for the payment of the rental as alleged in the eviction petition, and further an ex-parte order was passed against her, which is challenged before the Rent Control Appellate Authority, and the same is also now pending. Pending the same, an interlocutory application was filed, seeking the stay of the order of the Rent Controller, and there was a conditional order passed by the Rent Control Appellate Authority that she should deposit the rental arrears within the stipulated time; but, she has not done so. Having failed to deposit the arrears of rental before the lower appellate forum, she could not get the assistance of the Court in respect of stay. This Court is of the view that the Rent Control Appellate Authority was perfectly correct in dismissing the application, since she has not obeyed the orders of the lower appellate forum.
8. At this stage, the learned Counsel for the petitioner would submit that execution proceedings have been initiated, and it is also pending before the Rent Controller, and delivery has also been order, and if not the order of the Rent Controller is stayed, she would suffer eviction from the premises. From the copy of the typed set of papers furnished by the petitioner's side, the Court is able to see that after the passing of the ex-parte order on 23.6.2003, E.P.No.101 of 200 3 was filed. A perusal of the orders of the Court minutes would clearly indicate that notice was ordered number of times, and they were affixed, since the tenant was out of station, and the batta has been paid on number of occasions, and there was also change of lawyer. At the same time, the petitioner, who was very well available in Dindigul, has taken the parallel proceedings by filing RCA. This would be indicative of the recalcitrant attitude and carelessness of the petitioner. That apart, she has no care for law or for Court proceedings. To such a person, this Court is not inclined to show any indulgence. The facts and circumstances also do not merit acceptance by the Court for making any interference over the order of the lower appellate forum.
9. In view of the reasons stated above, this revision deserves to be dismissed, and the same is, accordingly, dismissed, confirming the order of the lower appellate forum. No costs. Consequently, connected CMP is also dismissed.

Index: yes
Internet: yes

To:

1. The Principal District Munsif, Dindigul.
2. The Principal Subordinate Judge, Dindigul.

nsv/